

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CHAPTER 7
JOSHUA WILLIAM WADDELL, :
: CASE NO. 18-53908-PMB
Debtor :

**DEBTOR'S RESPONSE TO
CHAPTER 7 TRUSTEE'S
MOTION TO VACATE DISMISSAL ORDER**

COMES NOW the undersigned counsel to Debtor, and files this Response to the Motion to Vacate Dismissal Order (the "Motion"), showing the Court as follows:

This Motion is moot given the Debtor's newly filed Chapter 13 petition (Case No. which is now pending before this Court.

BACKGROUND

Debtor filed this case (17-53908) on March 6, 2018 as a Chapter 11 case. The Court later converted the case to a Chapter 7 case. After Debtor missed his 341 Meeting of Creditors, Chapter 7 Trustee William J. Layng, Jr. ("Chapter 7 Trustee") moved to dismiss the case. This Court entered its Order dismissing the case on September 28, 2018 (Doc. No. 55). On October 12, 2018, Chapter 7 Trustee filed its Motion (Doc. No. 57), and the Court set a hearing for November 5, 2018 at 2:00 pm.

DISCUSSION

Debtor and his spouse occupy a home in Fulton County, Georgia. The home is scheduled for foreclosure on November 6, 2018. If the family were to file a bankruptcy to stay the foreclosure, the timing of the November 5 hearing would not allow for post-hearing time to impose and enforce the stay. Therefore, out of an abundance of caution, Debtor and his spouse have filed a new Chapter 13 case, which is now pending before this Court as Case 18-68467 (the “New Case”).

Debtor has no objection to this Court hearing and considering all pending matters from the prior bankruptcy in the New Case.

Debtor therefore requests that this Court deny the Motion as moot, and consider all such matters in the New Case.

Dated: November 2, 2018

/s/

Howard P. Slomka
Georgia Bar #652875
Attorney for the Debtor
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Overlook III, Suite 1700
2859 Paces Ferry Rd, SE
Atlanta, GA 30339

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	CHAPTER 11
	:	
JOSHUA W. WADDELL,	:	CASE NO. 18-53908-PMB
	:	
Debtor.	:	

CERTIFICATE OF SERVICE

I, Howard Slomka, attorney for Debtor, certify that the below listed parties and the attached service list have been served with a true and correct copy of the attached pleadings by placing a copy of same in a properly addressed envelope with adequate postage thereon and deposited in the United States Mail.

Daniel M. McDermott
United States Trustee
362 Richard Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

Lindsay P.S. Kolba
Office of the United States Trustee
Suite 362
75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303

R. Jeneane Treace
Office of the United States Trustee
362 Richard Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, GA 30303

William J. Layng, Jr.
William J. Layng, Jr., PC
Suite 3477
2451 Cumberland Parkway
Atlanta, GA 30339-6157

SEE ATTACHED FOR ADDITIONAL LIST OF CREDITORS

Dated: November 2, 2018

/s/
Howard Slomka
Georgia Bar No. 652875
Slipakoff & Slomka
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Atlanta, Georgia 30339